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REMARKS

The Applicants have carefully reviewed the final Office Action of August 27, 2003, note with appreciation the withdrawal of the previous Section 112 rejections made, and respectfully request reconsideration of the new rejections made therein in light of the foregoing amendments and the following remarks.

With regard to the rejection of claims 1 and 3-7 under Section 112, second paragraph, it is respectfully submitted that "consisting essentially of" is correctly used. It is well-accepted that this transitional phrase "limits the scope of . . . [the] claim to the specified materials or steps 'and those that do not materially affect the basic and novel characteristic(s)' of the claimed invention." MPEP § 2111.03 (8th ed., Rev. 1, Feb. 2003) (emphasis in original). Thus, it "occupies a middle ground between closed claims that are written in a consisting of format and fully open claims that are drafted in a 'comprising' format." *PPG Industries v. Guardian Industries*, 156 F.3d 1351, 1354, 48 USPQ2d 1351, 1353-54 (Fed. Cir. 1998).

As is made clear in the specification, the "basic" and "novel" characteristic of the trim panel of claim 1 (as compared to prior art panels, such as the one described in the Copperwheat patent) is the single multidensity nonlaminated acoustical and thermal insulating layer selected from the group of materials listed. The optional facing layers do not materially affect this basic and novel characteristic, so their addition in the dependent claims is entirely proper and is not precluded by the use of the "consisting essentially of" transitional phrase. Consequently, reconsideration of the rejections under Section 112, second paragraph is respectfully requested.

As for the substantive rejection based on the Copperwheat patent, claim 1 now reads on a trim panel consisting essentially of a single, multidensity nonlaminated acoustical and thermal layer of polymer fiber

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selected from a group consisting of polyester, a combination of polyester and fiberglass, polypropylene and any mixtures thereof. As set forth on page 2 of the present application, the Copperwheat patent relates to an acoustical and thermal insulation liner including multiple layers of non-woven polymeric material that are laminated together in order to provide the desired mechanical strength and rigidity and acoustical and thermal insulating properties. As discussed extensively in the specification and emphasized in the last response, such lamination is deleterious. Furthermore, no mention is made in the Copperwheat patent of a trim panel having as its "basic" and "novel" characteristic a single multidensity nonlaminated layer of polymer fiber, as is now required in claim 1. Consequently, favorable reconsideration of the anticipation rejection of this claim and dependent claims 3-7 in light of this amendment is respectfully requested.

Reconsideration of the anticipation rejection of claim 8 based on the Fottinger et al. patent is also respectfully requested. As presented, this claim reads on a trim panel insulator for a vehicle comprising a single, nonlaminated acoustical and thermal insulating layer of polymer fiber selected from a group consisting of polyester, a combination of polyester and fiberglass, polypropylene and any mixtures thereof. The layer also includes a nonlaminated skin of polymer fiber along at least one face of the acoustical and thermal insulating layer, said nonlaminated skin having a higher density than a remaining portion of said insulating layer.

The Examiner contends that the Fottinger et al. patent "can be a three layer composite" material, in which case the patent explains that all layers are "pressed and compacted into the intended shape" (col. 2, ll. 16-17). Despite this processing, the three distinct layers plainly have interfaces between them. The structure thus formed, or "part" as it is called in the patent, is essentially a laminated one.

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This conclusion is buttressed by the examples of the three-layer “part” provided. In particular, Example 2 describes using distinct cover layers and center layers of the “same fiber material” (a mixture of polyethylene terephthalate and polybutylene terephthalate) having different weights-per-unit area (250 g/m^2 and 500 g/m^2) (see, e.g., Example 2, lines 21-32). Likewise, Example 3 describes a three-layer “part” including the “outer layers according to Example 2” and a central layer having a different weight-per-unit area. These teachings undoubtedly establish the use of separate and distinct layers to form the structure.

In contradistinction, claim 8 reads on a *nonlamine* insulating layer having a *nonlamine skin*, with the skin having a higher density than a remaining portion of “said insulating layer.” Applicant’s claimed arrangement is thus a unitary multidensity structure devoid of deleterious interfaces. As discussed extensively in the specification and in the response to the last Office Action, this lack of interfaces avoids the undesirable delamination characteristic of prior art trim structures, such as the one comprised of three distinct layers of “pressed and compacted” material that is the focus of the Examiner’s rejection. In light of the foregoing, reconsideration of this rejection of this claims and the claims that depend from it is respectfully requested.

In summary, all the pending claims meet the requirements of Section 112 of the Patent Act and patentably distinguish over the prior art of record in this patent application. Accordingly, favorable reconsideration of the rejections made in the final Office Action and the early issuance of a formal Notice of Allowance is earnestly solicited.

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If any fees are required pertaining to this Amendment, Applicant requests that they be charged to Deposit Account No. 50-0568.

Respectfully submitted,

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